

AMENDMENT NO. _____ Calendar No. _____

Purpose: To prohibit reimbursement of governments for prosecution or pre-trial detention of an individual if the Attorney General concludes there is reason to believe that the individual's underlying apprehension arose from unlawful conduct by a law enforcement official.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BLUMENTHAL

Viz:

1 After subsection (a) of section 1108, insert the fol-
2 lowing:

3 (b) EXCEPTION.—The Attorney General shall not re-
4 imburse a State, county, tribal, or municipal government
5 for costs associated with the prosecution or pre-trial deten-
6 tion of any individual under subsection (a) if the Attorney
7 General concludes there is reason to believe that the indi-
8 vidual's underlying apprehension arose from unlawful con-
9 duct by a law enforcement official.

Committee Amendment Proposed by
Mrs. Feinstein

1 Strike section 1110, insert the following:

2 **SEC. 1110. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

3 (a) SCAAP REAUTHORIZATION.—Section
4 241(i)(5)(C) (8 U.S.C. 1231(i)(5)) is amended by striking
5 “2011.” and inserting “2015.”.

6 (b) SCAAP ASSISTANCE FOR STATES.—

7 (1) ASSISTANCE FOR STATES INCARCERATING
8 UNDOCUMENTED ALIENS CHARGED WITH CERTAIN
9 CRIMES.—Section 241(i)(3)(A) (8 U.S.C.
10 1231(i)(3)(A)) is amended by inserting “charged
11 with or” before “convicted”.

12 (2) ASSISTANCE FOR STATES INCARCERATING
13 UNVERIFIED ALIENS.—Section 241(i) (8 U.S.C.
14 1231(i)), as amended by subsection (a), is further
15 amended—

16 (A) by redesignating paragraphs (4), (5),
17 and (6), as paragraphs (5), (6), and (7), re-
18 spectively;

19 (B) in paragraph (7), as so redesignated,
20 by striking “(5)” and inserting “(6)”; and

21 (C) by adding after paragraph (3) the fol-
22 lowing:

1 “(4) In the case of an alien whose immigration
2 status is unable to be verified by the Secretary of
3 Homeland Security, and who would otherwise be an
4 undocumented criminal alien if the alien is unlaw-
5 fully present in the United States, the Attorney Gen-
6 eral shall compensate the State or political subdivi-
7 sion of the State for incarceration of the alien, con-
8 sistent with subsection (i)(2).”.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To apply border security strategies to all border sectors.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. GRASSLEY

Viz:

- 1 On page 9, line 13, strike “high risk”.
- 2 On page 10, strike lines 1 through 4.
- 3 On page 10, line 16, strike “high risk” and insert
- 4 “all”.
- 5 On page 14, line 12, strike “high risk”.
- 6 On page 17, line 4, strike “high risk”.

- 1 On page 17, line 7, strike “high risk”.
- 2 On page 17, line 18, strike “high risk”.
- 3 On page 18, line 14, strike “high risk”.
- 4 On page 19, line 11, strike “high risk”.
- 5 On page 30, line 3, strike “high-risk”.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To replace title I of the bill with specific border security requirements that shall be met before the Secretary of Homeland Security may process applications for registered immigrant status or blue card status and to avoid Department of Homeland Security budget reductions.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. CRUZ

Viz:

1 On page 33, strike line 1 and all that follow through
2 page 60, line 25, and insert the following:

3 **TITLE I—BORDER SECURITY**

4 **SEC. 1101. BORDER SECURITY REQUIREMENTS.**

5 (a) IN GENERAL.—During the 3-year period begin-
6 ning on the date of the enactment of this Act, the Sec-
7 retary shall—

8 (1) triple the number of U.S. Border Patrol
9 agents stationed along the international border be-
10 tween the United States and Mexico;

1 (2) quadruple the equipment and other assets
2 stationed along such border, including cameras, sen-
3 sors, drones, and helicopters, to enable continuous
4 monitoring of the border;

5 (3) complete all of the fencing required under
6 the Secure Fence Act of 2006 (Public Law 109–
7 367);

8 (4) develop, in cooperation with the Department
9 of Defense and all Federal law enforcement agen-
10 cies, a policy ensuring real-time sharing of informa-
11 tion among all Federal law enforcement agencies re-
12 garding—

13 (A) smuggling routes for humans and con-
14 traband;

15 (B) patterns in illegal border crossings;

16 (C) new techniques or methods used in
17 cross-border illegal activity; and

18 (D) all other information pertinent to bor-
19 der security;

20 (5) complete and fully implement the United
21 States Visitor and Immigrant Status Indicator Tech-
22 nology (US-VISIT), including the biometric entry-
23 exist portion; and

24 (6) establish operational control (as defined in
25 section 2(b) of the Secure Fence Act of 2006 (Public

1 Law 109–367)) over 100 percent of the inter-
2 national border between the United States and Mex-
3 ico.

4 (b) TRIGGERS.—The Secretary may not commence
5 processing applications for registered provisional immi-
6 grant status pursuant to section 245B of the Immigration
7 and Nationality Act, as added by section 2101, or blue
8 card status under section 2111 until the Secretary has
9 substantially complied with all of the requirements set
10 forth in subsection (a).

11 (c) BUDGETARY EFFECTS OF NONCOMPLIANCE.—

12 (1) INITIAL REDUCTIONS.—If, on the date that
13 is 3 years after the date of the enactment of this
14 Act, the Secretary has failed to substantially comply
15 with all of the requirements set forth in subsection
16 (a)—

17 (A) the amount appropriated to the De-
18 partment for the following fiscal year shall be
19 automatically reduced by 20 percent;

20 (B) an amount equal to the reduction
21 under subparagraph (A) shall be made avail-
22 able, in block grants, to the States of Arizona,
23 California, New Mexico, and Texas for securing
24 the international border between the United
25 States and Mexico; and

1 (C) the salary of all political appointees at
2 the Department shall be reduced by 20 percent.

3 (2) SUBSEQUENT YEARS.—If, on the date that
4 is 4, 5, 6, or 7 years after the date of the enactment
5 of this Act, the Secretary has failed to substantially
6 comply with all of the requirements set forth in sub-
7 section (a)—

8 (A) the reductions and block grants au-
9 thorized under subparagraphs (A) and (B) of
10 paragraph (1) shall increase by an additional 5
11 percent of the amount appropriated to the De-
12 partment before the reduction authorized under
13 paragraph (1)(A); and

14 (B) the salary of all political appointees at
15 the Department shall be reduced by an addi-
16 tional 5 percent.

17 (d) AUTHORIZATION OF APPROPRIATIONS.—

18 (1) IN GENERAL.—Subject to paragraph (2),
19 there are authorized to be appropriated to carry out
20 this title such sums as may be necessary for each of
21 the fiscal year 2014 through 2018.

22 (2) OFFSET.—Any amounts appropriated pur-
23 suant to paragraph (1) shall be offset by an equal
24 reduction in the amounts appropriated for other pur-
25 poses.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require the completion of the 700 miles of reinforced, double-layered fencing described in section 102(b)(1)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 as a trigger.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. SESSIONS

Viz:

1 On page 10, strike lines 8 through 13 and insert the
2 following:

3 (7) SOUTHERN BORDER FENCING.—The term
4 “Southern border fencing” means the reinforced,
5 double-layered fencing described in section
6 102(b)(1)(A) of the Illegal Immigration Reform and
7 Immigrant Responsibility Act of 1996 (8 U.S.C.
8 1103 note).

1 On page 10, lines 24 and 25, strike “Southern Bor-
2 der Fencing Strategy” and insert “Southern border fenc-
3 ing”.

4 On page 11, strike lines 22 through 25, and insert
5 the following:

6 (i) the Southern border fencing has
7 been implemented and is substantially
8 completed;

9 On page 24, strike lines 5 through 22, and insert the
10 following:

11 (b) SOUTHERN BORDER FENCING.—Not later than
12 180 days after the date of the enactment of this Act, the
13 Secretary shall submit a notice of commencement of the
14 implementation of the Southern border fencing to Con-
15 gress and the Comptroller General of the United States.

16 On page 30, line 5, strike “Border Fencing Strategy”
17 and insert “border fencing”.

18 On page 60, strike line 11, and insert the following:

1 **SEC. 1116. EXTENSION OF REINFORCED FENCING ALONG**
2 **THE SOUTHWEST BORDER.**

3 Section 102(b)(1)(A) of the Illegal Immigration Re-
4 form and Immigrant Responsibility Act of 1996 (8 U.S.C.
5 1103 note) is amended by adding at the end the following:
6 “Only fencing that is double-layered and constructed in
7 a way to effectively restrain pedestrian traffic may be used
8 to satisfy the 700-mile requirement under this subpara-
9 graph. Fencing that does not effectively restrain pedes-
10 trian traffic (such as vehicle barriers and virtual fencing)
11 does not satisfy the requirement under this subpara-
12 graph.”.

13 **SEC. 1117. SEVERABILITY AND DELEGATION.**

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require the Secretary of Homeland Security to establish standards to ensure humane conditions for children in the custody of U.S. Customs and Border Protection.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mrs. FEINSTEIN

Viz:

1 On page 52, between lines 14 and 15, insert the fol-
2 lowing:

3 (c) HUMANE CONDITIONS OF CONFINEMENT FOR
4 CHILDREN IN U.S. CUSTOMS AND BORDER PROTECTION
5 CUSTODY.—Not later than 90 days after the date of the
6 enactment of this Act, the Secretary shall establish stand-
7 ards to ensure that children in the custody of U.S. Cus-
8 toms and Border Protection—

9 (1) are afforded adequate medical and mental
10 health care, including emergency medical and mental
11 health care, when necessary;

2

- 1 (2) receive adequate nutrition;
- 2 (3) are provided with climate-appropriate cloth-
- 3 ing, footwear, and bedding;
- 4 (4) have basic personal hygiene and sanitary
- 5 products; and
- 6 (5) are permitted to make supervised phone
- 7 calls to family members.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To protect of family values in programs to apprehend aliens at an international border of the United States.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Ms. HIRONO

Viz:

1 After section 1114, insert the following:

2 **SEC. 1115. PROTECTION OF FAMILY VALUES IN APPREHEN-**
3 **SION PROGRAMS.**

4 (a) DEFINITIONS.—In this section:

5 (1) APPREHENDED INDIVIDUAL.—The term
6 “apprehended individual” means an individual ap-
7 prehended by personnel of the Department of Home-
8 land Security or of a cooperating entity pursuant to
9 a migration deterrence program carried out at a bor-
10 der.

1 (2) BORDER.—The term “border” means an
2 international border of the United States.

3 (3) CHILD.—Except as otherwise specifically
4 provided, the term “child” has the meaning given to
5 the term in section 101(b)(1) of the Immigration
6 and Nationality Act (8 U.S.C. 1101(b)(1)).

7 (4) COOPERATING ENTITY.—The term “cooper-
8 ating entity” means a State or local entity acting
9 pursuant to an agreement with the Secretary.

10 (5) MIGRATION DETERRENCE PROGRAM.—The
11 term “migration deterrence program” means an ac-
12 tion related to the repatriation or referral for pros-
13 ecution of 1 or more apprehended individuals for a
14 suspected or confirmed violation of the Immigration
15 and Nationality Act (8 U.S.C. 1001 et seq.) by the
16 Secretary or a cooperating entity.

17 (b) PROCEDURES FOR MIGRATION DETERRENCE
18 PROGRAMS AT THE BORDER.—

19 (1) PROCEDURES.—In any migration deterrence
20 program carried out at a border, the Secretary and
21 cooperating entities shall for each apprehended indi-
22 vidual—

23 (A) as soon as practicable, but not later
24 than 2 hours after an such individual is appre-
25 hended—

1 (i) inquire as to whether the appre-
2 hended individual is—

3 (I) a parent, legal guardian, or
4 primary caregiver of a child; or

5 (II) traveling with a spouse or
6 child; and

7 (ii) ascertain whether repatriation of
8 the apprehended individual presents any
9 humanitarian concern or concern related to
10 such individual's physical safety; and

11 (B) ensure that, with respect to a decision
12 related to the repatriation or referral for pros-
13 ecution of the apprehended individual, due con-
14 sideration is given—

15 (i) to the best interests of such indi-
16 vidual's child, in any;

17 (ii) to family unity whenever possible;
18 and

19 (iii) to other public interest factors,
20 including humanitarian concerns and con-
21 cerns related to the apprehended individ-
22 ual's physical safety.

23 (c) MANDATORY TRAINING.—The Secretary, in con-
24 sultation with the Secretary of Health and Human Serv-
25 ices, the Attorney General, the Secretary of State, and

1 independent immigration, child welfare, family law, and
2 human rights law experts, shall—

3 (1) develop and provide specialized training for
4 all personnel of U.S. Customs and Border Protection
5 and cooperating entities who come into contact with
6 apprehended individuals in all legal authorities, poli-
7 cies, and procedures relevant to the preservation of
8 a child's best interest, family unity, and other public
9 interest factors, including those described in this
10 Act; and

11 (2) require border enforcement personnel to un-
12 dertake periodic and continuing training on best
13 practices and changes in relevant legal authorities,
14 policies, and procedures pertaining to the preserva-
15 tion of a child's best interest, family unity, and other
16 public interest factors, including those described in
17 this Act.

18 (d) ANNUAL REPORT ON THE IMPACT OF MIGRATION
19 DETERRENCE PROGRAMS AT THE BORDER.—

20 (1) REQUIREMENT FOR ANNUAL REPORT.—Not
21 later than 1 year after the date of the enactment of
22 this Act, and annually thereafter, the Secretary shall
23 submit to Congress a report that describes the im-
24 pact of migration deterrence programs on parents,
25 legal guardians, primary caregivers of a child, indi-

1 individuals traveling with a spouse or child, and individ-
2 uals who present humanitarian considerations or
3 concerns related to the individual's physical safety.

4 (2) CONTENTS.—Each report submitted under
5 paragraph (1) shall include for the previous 1-year
6 period an assessment of—

7 (A) the number of apprehended individuals
8 removed, repatriated, or referred for prosecu-
9 tion who are the parent, legal guardian, or pri-
10 mary caregiver of a child who is a citizen of the
11 United States;

12 (B) the number of occasions in which both
13 parents, or the primary caretaker of such a
14 child was removed, repatriated, or referred for
15 prosecution as part of a migration deterrence
16 program;

17 (C) the number of apprehended individuals
18 traveling with close family members who are re-
19 moved, repatriated, or referred for prosecution.

20 (D) the impact of migration deterrence
21 programs on public interest factors, including
22 humanitarian concerns and physical safety.

23 (e) REGULATIONS.—Not later than 120 days after
24 the date of the enactment of this Act, the Secretary shall
25 promulgate regulations to implement this section.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To prohibit the granting of registered provisional immigrant status until the Secretary has maintained effective control of the borders for 6 months and to apply border security strategies to all border sectors.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. GRASSLEY

Viz:

- 1 On page 9, line 13, strike “high risk”.
- 2 On page 10, strike lines 1 through 4.
- 3 On page 10, line 16, strike “high risk” and insert
4 “all”.
- 5 Beginning on page 10, strike line 19 and all that fol-
6 lows through page 11, line 4, and insert the following:

1 (1) PROCESSING OF APPLICATIONS FOR REG-
2 ISTERED PROVISIONAL IMMIGRANT STATUS.—Not
3 earlier than the date upon which the Secretary has
4 submitted to Congress a certification that the Sec-
5 retary has maintained effective control of the
6 Souther border for a period of not less 6 months,
7 the Secretary may commence processing applications
8 for registered provisional immigrant status pursuant
9 to section 245B of the Immigration and Nationality
10 Act, as added by section 2101 of this Act.

11 On page 11, line 20, strike “substantially” and insert
12 “fully”.

13 On page 11, line 24, strike “substantially” and insert
14 “fully”

15 On page 14, line 12, strike “high risk”.

16 On page 17, line 4, strike “high risk”.

17 On page 17, line 7, strike “high risk”.

18 On page 17, line 18, strike “high risk”.

- 1 On page 18, line 14, strike “high risk”.
- 2 On page 19, line 11, strike “high risk”.
- 3 On page 30, line 3, strike “high-risk”.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To restrict the use of unarmed, unmanned aerial vehicles in California to within 3 miles of the Southern border.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mrs. FEINSTEIN to the amendment (No. 11) proposed by Mrs. FEINSTEIN

Viz:

1 On page 1, strike lines 1 and 2, and insert the fol-
2 lowing:

3 On page 44, line 22, strike “(b)” and insert the fol-
4 lowing:

5 (b) LIMITATION.—Notwithstanding paragraphs (1)
6 and (2) of subsection (a), U.S. Border Patrol may not op-
7 erate unarmed, unmanned aerial vehicles in the San Diego
8 and El Centro Sectors, except within 3 miles of the South-
9 ern border.

10 (c)

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require the use of a biometric entry and exit data system at ports of entry before the Secretary of Homeland Security may adjust the status of aliens who have been granted registered provisional immigrant status.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. SESSIONS

Viz:

- 1 On page 12, strike lines 9 through 13, and insert the
- 2 following:
- 3 (iv) the Secretary has implemented
- 4 the biometric entry and exit data system in
- 5 accordance with the requirements set forth
- 6 in section 7208 of the Intelligence Reform
- 7 and Terrorism Prevention Act of 2004 (8
- 8 U.S.C. 1365b).

2

- 1 Beginning on page 556, strike line 20 and all that
- 2 follows through page 558, line 9.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To prevent amendments to the visa waiver program from taking effect until the biometric entry and exit data system described in section 7208 of the 9/11 Commission Implementation Act of 2004 has been fully implemented and to strike the amendments to the waiver provision.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by

Viz:

1 On page 774, strike line 17 and all that follows
2 through line 4 on page 776.

3 On page 781, after line 22, add the following:

4 (h) EFFECTIVE DATE.—The provisions of and
5 amendments made by this section shall take effect on the
6 date on which the Secretary determines and certifies to
7 Congress that the biometric entry and exit data system
8 described in section 7208 of the 9/11 Commission Imple-

1 mentation Act of 2004 (8 U.S.C. 1365b) has been fully
2 implemented.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for future immigration and limit the number of nonimmigrant aliens who may be authorized for employment in the United States.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. SESSIONS

Viz:

1 Strike sections 2301, 2302, 2304, 2305, and 2307.

2 At the beginning of subtitle C of title II, insert the
3 following:

4 **SEC. 2301. FUTURE IMMIGRATION.**

5 (a) ALIENS ELIGIBLE FOR IMMIGRANT VISAS.—

6 (1) WORLDWIDE LEVEL OF IMMIGRATION.—

7 Section 201(a) is amended to read as follows:

8 “(a) IN GENERAL.—

9 “(1) IN GENERAL.—Except as provided in sec-
10 tions 245C, 245D, and 245F and subject to sub-

1 section (b), paragraph (2), and the allocations set
2 out in section 203(a), aliens born in a foreign state
3 or dependent area who may be issued an immigrant
4 visa or who may otherwise acquire the status of an
5 alien lawfully admitted for permanent residence are
6 limited to—

7 “(A) the children and spouses of citizens of
8 the United States or of aliens lawfully admitted
9 for permanent residence;

10 “(B) merit-based immigrants described in
11 section 203(b);

12 “(C) aliens eligible for an adjustment of
13 status under section 209; and

14 “(D) aliens admitted to the United States
15 under section 208.

16 “(2) SPECIAL RULE FOR BACKLOG.—Subject to
17 subsection (b), an alien who is the beneficiary of a
18 petition filed to accord status under subsection (a)
19 or (b) of this section as in effect on the day before
20 the date of the enactment of the Border Security,
21 Economic Opportunity, and Immigration Moderniza-
22 tion Act and who was not issued an immigrant visa
23 within 5 years after the date on which such petition
24 was filed is eligible to receive an immigrant visa in

1 a number allocated for such aliens under section
2 203(a)(2).”.

3 (2) TERMINATION OF IMMEDIATE RELATIVE
4 CATEGORY AND NUMERICAL LIMITATIONS.—Section
5 201(b) (8 U.S.C. 1151(b)) is amended to read as
6 follows:

7 “(b) NUMERICAL LIMITATION.—The worldwide level
8 of aliens who may be issued an immigrant visa or who
9 may otherwise acquire the status of an alien lawfully ad-
10 mitted to the United States for permanent residence may
11 not exceed 1,200,000.”.

12 (3) CONFORMING AMENDMENTS.—Section 201
13 (8 U.S.C. 1151) is amended by striking subsections
14 (c), (d), and (f).

15 (b) ALLOCATION OF IMMIGRANT VISAS.—Section 203
16 (8 U.S.C. 1153) is amended to read as follows:

17 “(a) ALLOCATION OF IMMIGRANT VISAS.—

18 “(1) IN GENERAL.—Subject to paragraph (2),
19 the worldwide level of immigrant visas described in
20 section 201(b) shall be allocated as follows:

21 “(A) CHILDREN AND SPOUSES.—The first
22 priority shall be aliens described in paragraph
23 (1) of section 201(a), in a number not to exceed
24 the number of such aliens admitted during the
25 previous fiscal year.

1 “(B) ASYLUM AND REFUGEE SEEKERS.—

2 The second priority shall be aliens described in
3 paragraphs (3) and (4) of section 201(a), in a
4 number not to exceed the number of such aliens
5 admitted during the previous fiscal year.

6 “(C) MERIT-BASED IMMIGRANTS.—The
7 third priority shall be aliens described in para-
8 graph (2) of section 201(a), allocated as de-
9 scribed in subsection (b).

10 “(2) SPECIAL ALLOCATION TO ADDRESS BACK-
11 LOG.—Until the date that all aliens described in sec-
12 tion 201(a)(2) have received immigrant visas under
13 such section, the worldwide level of immigrant visas
14 described in section 201(b) shall be allocated as fol-
15 lows:

16 “(A) MERIT-BASED IMMIGRANTS.—The
17 first priority shall be aliens described in para-
18 graph (2) of section 201(a), allocated as de-
19 scribed in subsection (b), in a number not to
20 exceed 140,000.

21 “(B) CHILDREN AND SPOUSES.—The sec-
22 ond priority shall be aliens described in para-
23 graph (1) of section 201(a), in a number not to
24 exceed the number of such aliens admitted dur-
25 ing the previous fiscal year.

1 “(C) ASYLUM AND REFUGEE SEEKERS.—

2 The third priority shall be aliens described in
3 paragraphs (3) and (4) of section 201(a), in a
4 number not to exceed the number of such aliens
5 admitted during the previous fiscal year.

6 “(D) VISA BACKLOG.—The fourth priority
7 shall be aliens described in section 201(a)(2).

8 “(b) MERIT-BASED IMMIGRANTS.—

9 “(1) ALLOCATION.—Aliens shall be allocated
10 merit-based immigrant visas based on the aliens
11 with the highest number of points allocated under
12 this subsection for a fiscal year.

13 “(2) POINTS.—The Secretary shall allocate
14 points to each alien seeking to be a merit-based im-
15 migrant as follows:

16 “(A) OCCUPATION.—

17 “(i) SPECIALITY OCCUPATION.—An
18 alien who will be employed in the United
19 States in a speciality occupation, as de-
20 fined by the Secretary of Labor, shall be
21 allocated 20 points.

22 “(ii) HIGH DEMAND OCCUPATIONS.—
23 An alien who will be employed in the
24 United States in 1 of the 30 occupations
25 that have experienced the most growth in

1 the preceding 10-year period, as deter-
2 mined by the Bureau of Labor Statistics,
3 shall be allocated 16 points.

4 “(iii) STEM OR HEALTH OCCUPA-
5 TIONS.—An alien who has been employed
6 in the United States in a occupation re-
7 lated to science, technology, engineering, or
8 mathematics, or health care for at least 1
9 year shall be allocated 8 points.

10 “(B) EMPLOYER ENDORSEMENT.—An
11 alien with an employer in the United States
12 that will pay at least 50 percent of the applica-
13 tion fees for the alien’s merit-based visa and
14 that has offered the alien a job or currently em-
15 ploys the alien shall be allocated 6 points.

16 “(C) EMPLOYMENT EXPERIENCE.—

17 “(i) IN GENERAL.—An alien who has
18 been lawfully employed in the United
19 States shall be allocated 2 points for each
20 year of such employment.

21 “(ii) MAXIMUM ALLOCATION.—An
22 alien may not be allocated more than 10
23 points under this subparagraph.

24 “(D) AGE.—An alien who is between 25
25 and 39 years of age shall be allocated 3 points.

1 “(E) EDUCATION.—

2 “(i) IN GENERAL.—An alien may re-
3 ceive points under only 1 of the following
4 categories:

5 “(I) An alien who has received a
6 doctorate degree, master’s degree, or
7 other graduate degree from an institu-
8 tion of higher education in the United
9 States or the foreign equivalent shall
10 be allocated 20 points.

11 “(II) An alien who has received a
12 bachelor’s degree from an institution
13 of higher education (as defined in sec-
14 tion 101(a) of the Higher Education
15 Act of 1965 (20 U.S.C. 1001(a)) shall
16 be allocated 16 points.

17 “(III) An alien who has received
18 an associate’s degree shall be allo-
19 cated 10 points.

20 “(IV) An alien who has received
21 a high school diploma or its equivalent
22 shall be allocated 6 points.

23 “(V) An alien who has completed
24 a certified Perkins Vocational Edu-

1 cation Program shall be allocated 5
2 points.

3 “(VI) An alien who has com-
4 pleted a Department of Labor reg-
5 istered apprenticeship shall be allo-
6 cated 8 points.

7 “(ii) STEM EDUCATION.—An alien
8 who has received an associate’s or higher
9 degree in a field related to science, tech-
10 nology, engineering, or mathematics shall
11 be allocated 8 points.

12 “(F) ENGLISH LANGUAGE AND CIVICS.—
13 An alien may receive points under only 1 of the
14 following categories:

15 “(i) An alien who is a native speaker
16 of English or receives a score of 75 or
17 more on the Test of English as a Foreign
18 Language, or an equivalent score on a
19 similar test, as determined by the Sec-
20 retary, shall be allocated 15 points.

21 “(ii) An alien who receives a score be-
22 tween 60 and 74 on the Test of English as
23 a Foreign Language, or an equivalent
24 score on a similar test, as determined by
25 the Secretary, shall be allocated 10 points.

1 “(iii) An alien who passes the U.S.
2 Citizenship and Immigration Services citi-
3 zenship tests in English and Civics shall be
4 allocated 6 points.

5 “(G) EXTENDED FAMILY.—

6 “(i) IN GENERAL.—An alien may re-
7 ceive points under only 1 of the following
8 categories:

9 “(I) SONS AND DAUGHTERS OF
10 CITIZENS.—An alien who is the son or
11 daughter (but not the child) of a cit-
12 izen of the United States shall be allo-
13 cated 8 points.

14 “(II) SONS AND DAUGHTERS OF
15 LAWFUL PERMANENT RESIDENT.—An
16 alien who is the son or daughter (but
17 not the child) of an alien lawfully ad-
18 mitted for permanent residence shall
19 be allocated 6 points.

20 “(III) SIBLINGS.—An alien who
21 is the sibling of a citizen of the
22 United States or an alien lawfully ad-
23 mitted for permanent residence shall
24 be allocated 4 points.

1 “(ii) IMMIGRANT VISA APPLICA-
2 TION.—An alien who applied for an immi-
3 grant visa under this Act on the basis of
4 a family relationship described in subclause
5 (I), (II), or (III) of clause (i) shall be allo-
6 cated 2 points.

7 “(3) FEE.—An alien who is allocated a visa
8 under this section shall pay fees assessed to cover
9 the costs to process an application under this sub-
10 section. Fees collected under this paragraph shall be
11 deposited by the Secretary into the Comprehensive
12 Immigration Reform Trust Fund established under
13 section 6(a)(1) of the Border Security, Economic
14 Opportunity, and Immigration Modernization Act.

15 “(4) ELIGIBILITY OF ALIENS IN REGISTERED
16 PROVISIONAL IMMIGRANT STATUS.—An alien who
17 was granted registered provisional immigrant status
18 under section 245B is not eligible to receive a merit-
19 based immigrant visa under section 201(e).

20 “(5) INELIGIBILITY OF ALIENS WITH PENDING
21 OR APPROVED PETITIONS.—An alien who has a peti-
22 tion pending or approved in another immigrant cat-
23 egory under this section or section 201 may not
24 apply for a merit-based immigrant visa.

1 “(6) PROCEDURES.—The Secretary of Home-
2 land Security—

3 “(A) after consultation with the Secretary
4 of Commerce and the Secretary of Labor, shall
5 establish procedures to adjudicate petitions filed
6 pursuant to the merit-based evaluation system
7 under this subsection; and

8 “(B) may establish a time period in a fis-
9 cal year in which such petitions must be sub-
10 mitted.

11 “(7) PROHIBITION ON REVIEW.—The applica-
12 tion of the selection criteria to any particular visa
13 petition or application pursuant to the merit-based
14 evaluation system under this subsection shall be
15 within the sole and unreviewable discretion of the
16 Secretary of Homeland Security.

17 “(8) DENIAL OF A PETITION.—Any petition
18 filed pursuant to this subsection that has not been
19 found by the Secretary of Homeland Security to
20 have qualified in the merit-based evaluation system
21 shall be deemed denied on the first day of the third
22 fiscal year following the date on which such petition
23 was filed. Such denial shall not preclude the peti-
24 tioner from filing a successive petition pursuant to
25 this paragraph. Notwithstanding this paragraph, the

1 Secretary may deny a petition when denial is appro-
2 priate under other provisions of law.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act.

6 At the end of subtitle D of title IV, add the following:

7 **SEC. 4409. WORK AUTHORIZED STATUS FOR NON-**
8 **IMMIGRANTS.**

9 (a) REQUIREMENT FOR DOCUMENTATION.—Starting
10 on the date of the enactment of this Act, all nonimmigrant
11 aliens who are admitted or present in the United States
12 and who are authorized to be employed in the United
13 States shall be issued an employment authorization docu-
14 ment by the Secretary. Aliens who do not have such work
15 authorization are ineligible for employment. Non-
16 immigrants present with work authorization prior to the
17 date of the enactment of this Act shall be authorized to
18 continue to work without such documents until their visa
19 is renewed or expires.

20 (b) NUMERICAL LIMITATION.—Subject to subsection
21 (c), notwithstanding any other provision of law and sub-
22 ject to subsection (b), the Secretary may not issue an em-
23 ployment authorization document to more than 1,000,000
24 aliens authorized to be employed in the United States for

1 each fiscal year after the date of the enactment of this
2 Act.

3 (c) ALLOCATION FOR CERTAIN NONIMMIGRANTS.—

4 For each fiscal year, of the 1,000,000 grants of employ-
5 ment authorized status permitted under subsection (b),
6 169,000 shall be available only for nonimmigrants admit-
7 ted under subparagraph (A), (E), (G), (H)(i)(b1), (I), or
8 (N) of section 101(a)(15) of the Immigration and Nation-
9 ality Act (8 U.S.C. 1101(a)(15)) or section 214(e)(2) of
10 such Act (8 U.S.C. 1184(e)(2)).

AMENDMENT NO. _____ Calendar No. _____

Purpose: To modify provisions related to complaints against
H1-B employers.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for
other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. WHITEHOUSE

Viz:

1 On page 712, strike lines 14 through 21 and insert
2 the following:

3 Section 212(n) (8 U.S.C. 1182(n)) is amended—

4 (1) in paragraph (2)(A)—

5 (A) by striking “(A) Subject” and insert-
6 ing “(A)(i) Subject”;

7 (B) by inserting after the first sentence
8 the following: “Such process shall include publi-
9 cizing a dedicated toll-free number for the sub-
10 mission of such complaints.”;

11 (C) by striking “12 months” and inserting
12 “24 months”;

1 (D) by striking the last sentence and in-
2 serting the following: “The Secretary shall issue
3 regulations requiring that employers that em-
4 ploy H-1B nonimmigrants, other than those
5 specified in paragraph (3)(A)(i), through post-
6 ing of notices or other appropriate means, in-
7 form their employees of such toll-free number
8 and of their right to file complaints pursuant to
9 this paragraph.”; and

10 (E) by adding at the end the following:

11 On page 713, line 13, strike the period at the end
12 and insert the following: “; and

13 (2) by adding at the end the following new
14 paragraph:

15 “(6) REPORT REQUIRED.—Not later than 1
16 year after the date of the enactment of the Border
17 Security, Economic Opportunity, and Immigration
18 Modernization Act, and every 5 years thereafter, the
19 Inspector General of the Department of Labor shall
20 submit a report regarding the Secretary’s enforce-
21 ment of the requirements of this section to the Com-
22 mittee on the Judiciary and the Committee on
23 Health, Education, Labor, and Pensions of the Sen-
24 ate and the Committee on the Judiciary and the

- 1 Committee on Education and the Workforce of the
- 2 House of Representatives.”.

AMENDMENT NO. _____ Calendar No. _____

Purpose: Relating to the use of identity theft to harbor
or hiring unauthorized workers in violation of the Act.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for
other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRASSLEY

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____ . IDENTITY THEFT.**

3 Section 1028 of title 18, United States Code, is
4 amended—

5 (1) in subsection (a)(7), by striking “of another
6 person” and inserting “that is not his or her own”;
7 and

8 (2) in subsection (b)(3)—

9 (A) in subparagraph (B), by striking “or”
10 at the end;

11 (B) in subparagraph (C), by adding “or”
12 at the end; and

1 (C) by adding at the end the following:
2 “(D) to facilitate or assist in harboring or
3 hiring unauthorized workers in violation of sec-
4 tion 274, 274A, or 274C of the Immigration
5 and Nationality Act (8 U.S.C. 1324, 1324a,
6 1324c);”.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To exclude certain employment of domestic service from the prohibitions on unlawful employment of unauthorized aliens.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. LEE

Viz:

1 On page 415, between lines 5 and 6, insert the fol-
2 lowing:

3 “(3) DOMESTIC SERVICE.—The term ‘domestic
4 service’ means services performed by cooks, waiters,
5 butlers, housekeepers, governesses, maids, valets,
6 baby sitters, janitors, laundresses, furnacemen, care-
7 takers, handymen, gardeners, footmen, grooms, and
8 chauffeurs of automobiles for family use.

9 On page 415, line 6, strike “(3)” and insert “(4)”.

2

1 On page 415, beginning on line 12, strike “casual,
2 sporadic, irregular, or intermittent (as defined by the Sec-
3 retary)” and insert “domestic service performed in or
4 about the home of the hiring person or entity”.

5 On page 415, line 14, strike “(4)” and insert “(5)”.

6 On page 415, line 19, strike “(5)” and insert “(6)”.

7 On page 415, line 22, strike “(6)” and insert “(7)”.

8 On page 416, line 1, strike “(7)” and insert “(8)”.

9 On page 416, line 9, strike “(9)” and insert “(9)”.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To propose a substitute for section 4403, relating to E-visa reform.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRASSLEY

Viz:

1 Strike section 4403 and insert the following:

2 **SEC. 4403. E-VISA REFORM.**

3 (a) E-3(2) VISAS.—Section 101(a)(15)(E)(iii) (8
4 U.S.C. 1101(a)(15)(E)(iii)) is amended—

5 (1) by inserting “(I)” after “(iii)”; and

6 (2) by adding at the end “or (II) until Sep-
7 tember 30, 2015 (except for extensions for visa hold-
8 ers), solely to perform services as an employee who
9 meets the requirements under section 214(g)(12) if
10 the alien is a national of the Republic of Ireland and
11 with respect to whom the Secretary of Labor deter-
12 mines and certifies to the Secretary of Homeland

1 Security and the Secretary of State that the intend-
2 ing employer has filed with the Secretary of Labor
3 an attestation under section 212(t);”

4 (b) NUMERICAL LIMITATION.—Section 214(g)) (8
5 U.S.C. 1184(g)) is amended by adding at the end the fol-
6 lowing:

7 “(12)(A) The Secretary of State may not approve a
8 number of initial applications submitted for aliens de-
9 scribed in section 101(a)(15)(E)(iii)(II) that is more than
10 the applicable numerical limitation set out in this para-
11 graph.

12 “(B) The applicable numerical limitation referred to
13 in subparagraph (A) is 10,500 for each fiscal year which
14 shall be allocated as follows:

15 “(i) 3,500 for aliens in specialty occupations (as
16 defined in subsection (i)).

17 “(ii) 3,500 for aliens who have at least a high
18 school education or its equivalent, which shall in-
19 clude passage of a high school equivalency examina-
20 tion.

21 “(iii) 3,500 for aliens who, within 5 years of the
22 date of application for a visa under this subsection,
23 have at least 3 years of work experience in the occu-
24 pation for which the alien is applying.

1 “(C) The applicable numerical limitation referred to
2 in subparagraph (A) shall only apply to principal aliens
3 and not to the spouses or children of such aliens.

4 “(D) A visa issued pursuant to section
5 101(a)(15)(E)(iii)(II)—

6 “(i) shall be valid for a period of 2 years; and

7 “(ii) may be renewed, only after the Secretary
8 of Labor approves the labor attestation filed by the
9 employer as required under section 212(t), for an
10 unlimited number of 2 year periods.

11 “(E) In addition to any other fees authorized by law,
12 the Secretary of State shall impose a fee of \$300 on an
13 alien filing an application for a visa authorizing admission
14 to the United States as a nonimmigrant described in sec-
15 tion 101(a)(15)(E)(iii)(II). The Secretary shall impose a
16 fee of \$300 for spouses and children who are accom-
17 panying or following to join such principal aliens. The Sec-
18 retary shall deposit such funds in the general fund of the
19 Treasury.

20 “(F) No new visas may be issued pursuant to section
21 101(a)(15)(E)(iii)(II) after September 30, 2015, except
22 for extensions for visa holders.”.

23 (c) OTHER REQUIREMENTS.—

24 (1) INELIGIBILITY FOR UNLAWFUL PRES-
25 ENCE.—An alien may not enter the United States

1 pursuant to section 101(a)(15)(E)(iii)(II) of the Im-
2 migration and Nationality Act, as added by sub-
3 section (a), if the alien entered the United States
4 after the date of the enactment of this Act and has
5 been unlawfully present in the United States for 365
6 or more days after the date of the enactment of this
7 Act.

8 (2) PROHIBITION ON BENEFITS.—An alien
9 present in the United States pursuant to section
10 101(a)(15)(E)(iii)(II) of the Immigration and Na-
11 tionality Act, as added by subsection (a), is not eligi-
12 ble for any means-tested public benefit, including
13 Supplemental Security Income benefits, benefits pro-
14 vided under the Food and Nutrition Act of 2008 (7
15 U.S.C. 2011 et seq.), medical assistance under title
16 XIX of the Social Security Act, including for care
17 and services that are necessary for the treatment of
18 an emergency medical condition (as defined in sec-
19 tion 1903(v)(3) of such Act), and premium assist-
20 ance for the purchase of a qualified health plan
21 under section 36B of the Internal Revenue Code of
22 1986 and, if applicable, reduced cost sharing for
23 under section 1402 of the Patient Protection and
24 Affordable Care Act (Public Law 111–148; 124
25 Stat. 119).

1 (d) EFFECTIVE DATE.—This section and the amend-
2 ments made by this section shall take effect on the date
3 that the Secretary of State certifies that the Government
4 of Ireland provides immigration benefits to nationals of
5 the United States that are similar, considering the relative
6 population size of the two countries, to the benefits pro-
7 vided to nationals of Ireland under this section and the
8 amendments made by this section.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require all employers to use the Employment Verification System not later than 18 months after the date of the enactment of this Act.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRASSLEY

Viz:

1 Beginning on page 437, strike line 4 and all that fol-
2 lows through “(I)” on page 439, line 13, and insert the
3 following:

4 “(D) GENERAL PARTICIPATION REQUIRE-
5 MENT FOR NEW EMPLOYEES.—All employers in
6 the United States shall participate in the Sys-
7 tem, with respect to all employees hired by such
8 employers on or after the date that is 18
9 months after the date of the enactment of the
10 Border Security, Economic Opportunity, and
11 Immigration Modernization Act.

1

“(E)

AMENDMENT NO. _____ Calendar No. _____

Purpose: To prohibit withholding of employment records as
an unfair immigration-related employment practice.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for
other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. BLUMENTHAL

Viz:

1 On page 533, between lines 2 and 3, insert the fol-
2 lowing:

3 “(7) PROHIBITION OF WITHHOLDING EMPLOY-
4 MENT RECORDS.—It is an unfair immigration-re-
5 lated employment practice for an employer that is
6 required under Federal, State, or local law to main-
7 tain records documenting employment, including
8 dates or hours of work and wages received, to fail
9 to provide such records to any employee upon re-
10 quest.”.

11 On page 535, line 10, strike “(6)” and insert “(7)”.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for the admission to the United States
of certain Tibetans.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for
other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mrs. FEINSTEIN

Viz:

1 On page 581, after line 23, add the following:

2 **SEC. 3408. TIBETAN REFUGEE ASSISTANCE.**

3 (a) SHORT TITLE.—This section may be cited as the
4 “Tibetan Refugee Assistance Act of 2013”.

5 (b) TRANSITION FOR DISPLACED TIBETANS.—Not-
6 withstanding the numerical limitations specified in sec-
7 tions 201 and 202 of the Immigration and Nationality Act
8 (8 U.S.C. 1151 and 1152), 5,000 immigrant visas shall
9 be made available to qualified displaced Tibetans described
10 in subsection (c) during the 3-year period beginning on
11 October 1, 2013.

12 (c) QUALIFIED DISPLACED TIBETAN DESCRIBED.—

1 (1) IN GENERAL.—An individual is a qualified
2 displaced Tibetan if such individual—

3 (A) is a native of Tibet; and

4 (B) has been continuously residing in India
5 or Nepal since before the date of the enactment
6 of this Act.

7 (2) NATIVE OF TIBET DESCRIBED.—For pur-
8 poses of paragraph (1)(A), an individual shall be
9 considered a native of Tibet if such individual—

10 (A) was born in Tibet; or

11 (B) is the son, daughter, grandson, or
12 granddaughter of an individual who was born in
13 Tibet.

14 (d) DERIVATIVE STATUS FOR SPOUSES AND CHIL-
15 DREN.—A spouse or child (as defined in subparagraphs
16 (A), (B), (C), (D), or (E) of section 101(b)(1) of the Im-
17 migration and Nationality Act (8 U.S.C. 1101(b)(1)))
18 shall, if not otherwise entitled to an immigrant status and
19 the immediate issuance of a visa under this section, be
20 entitled to the same status, and the same order of consid-
21 eration, provided under this section, if accompanying, or
22 following to join, the spouse or parent of such spouse or
23 child.

24 (e) DISTRIBUTION OF VISA NUMBERS.—The Sec-
25 retary of State shall ensure that immigrant visas provided

1 under subsection (b) are made available to qualified dis-
2 placed Tibetans described in subsection (c) or (d) in an
3 equitable manner, giving preference to those qualified dis-
4 placed Tibetans who—
5 (1) are not resettled in India or Nepal; or
6 (2) are most likely to be resettled successfully
7 in the United States.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To protect children affected by immigration enforcement actions.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. FRANKEN (for himself, Mr. GRASSLEY, Mr. COONS, Ms. HIRONO, and Mrs. FEINSTEIN)

Viz:

1 At the end of title III, add the following:

2 **Subtitle H—Protection of Children**
 3 **Affected by Immigration En-**
 4 **forcement**

5 **SEC. 3801. SHORT TITLE.**

6 This subtitle may be cited as the “Humane Enforce-
 7 ment and Legal Protections for Separated Children Act”
 8 or the “HELP Separated Children Act”.

9 **SEC. 3802. DEFINITIONS.**

10 In this subtitle:

1 (1) APPREHENSION.—The term “apprehension”
2 means the detention or arrest by officials of the De-
3 partment or cooperating entities.

4 (2) CHILD.—The term “child” means an indi-
5 vidual who has not attained 18 years of age.

6 (3) CHILD WELFARE AGENCY.—The term
7 “child welfare agency” means a State or local agen-
8 cy responsible for child welfare services under sub-
9 titles B and E of title IV of the Social Security Act
10 (42 U.S.C. 601 et seq.).

11 (4) COOPERATING ENTITY.—The term “cooper-
12 ating entity” means a State or local entity acting
13 under agreement with the Secretary.

14 (5) DETENTION FACILITY.—The term “deten-
15 tion facility” means a Federal, State, or local gov-
16 ernment facility, or a privately owned and operated
17 facility, that is used, in whole or in part, to hold in-
18 dividuals under the authority of the Director of U.S.
19 Immigration and Customs Enforcement, including
20 facilities that hold such individuals under a contract
21 or agreement with the Director.

22 (6) IMMIGRATION ENFORCEMENT ACTION.—The
23 term “immigration enforcement action” means the
24 apprehension of 1 or more individuals whom the De-
25 partment has reason to believe are removable from

1 the United States by the Secretary or a cooperating
2 entity.

3 (7) PARENT.—The term “parent” means a bio-
4 logical or adoptive parent of a child, whose parental
5 rights have not been relinquished or terminated
6 under State law or the law of a foreign country, or
7 a legal guardian under State law or the law of a for-
8 eign country.

9 **SEC. 3803. APPREHENSION PROCEDURES FOR IMMIGRA-**
10 **TION ENFORCEMENT-RELATED ACTIVITIES.**

11 (a) APPREHENSION PROCEDURES.—In any immigra-
12 tion enforcement action, the Secretary and cooperating en-
13 tities shall—

14 (1) as soon as possible, but generally not later
15 than 2 hours after an immigration enforcement ac-
16 tion, inquire whether an individual is a parent or
17 primary caregiver of a child in the United States
18 and provide any such individuals with—

19 (A) the opportunity to make a minimum of
20 2 telephone calls to arrange for the care of such
21 child in the individual’s absence; and

22 (B) contact information for—

23 (i) child welfare agencies and family
24 courts in the same jurisdiction as the child;
25 and

1 (ii) consulates, attorneys, and legal
2 service providers capable of providing free
3 legal advice or representation regarding
4 child welfare, child custody determinations,
5 and immigration matters;

6 (2) notify the child welfare agency with jurisdic-
7 tion over the child if the child's parent or primary
8 caregiver is unable to make care arrangements for
9 the child or if the child is in imminent risk of seri-
10 ous harm;

11 (3) ensure that personnel of the Department
12 and cooperating entities do not, absent medical ne-
13 cessity or extraordinary circumstances, compel or re-
14 quest children to interpret or translate for interviews
15 of their parents or of other individuals who are en-
16 countered as part of an immigration enforcement ac-
17 tion; and

18 (4) ensure that any parent or primary caregiver
19 of a child in the United States—

20 (A) absent medical necessity or extraor-
21 dinary circumstances, is not transferred from
22 his or her area of apprehension until the indi-
23 vidual—

24 (i) has made arrangements for the
25 care of such child; or

1 (ii) if such arrangements are unavail-
2 able or the individual is unable to make
3 such arrangements, is informed of the care
4 arrangements made for the child and of a
5 means to maintain communication with the
6 child;

7 (B) absent medical necessity or extraor-
8 dinary circumstances, and to the extent prac-
9 ticable, is placed in a detention facility either—

10 (i) proximate to the location of appre-
11 hension; or

12 (ii) proximate to the individual's ha-
13 bitual place of residence; and

14 (C) receives due consideration of the best
15 interests of such child in any decision or action
16 relating to his or her detention, release, or
17 transfer between detention facilities.

18 (b) REQUESTS TO LOCAL AND STATE ENTITIES.—

19 If the Secretary requests a State or local entity to hold
20 in custody an individual who the Department has reason
21 to believe is removable pending transfer of that individual
22 to the custody of the Secretary or to a detention facility,
23 the Secretary shall also request that the State or local en-
24 tity provide the individual the protections specified in
25 paragraphs (1) and (2) of subsection (a), if that individual

1 is found to be the parent or primary caregiver of a child
2 in the United States.

3 (c) PROTECTIONS AGAINST TRAFFICKING PRE-
4 SERVED.—The provisions of this section shall not be con-
5 strued to impede, delay, or in any way limit the obligations
6 of the Secretary, the Attorney General, or the Secretary
7 of Health and Human Services under section 235 of the
8 William Wilberforce Trafficking Victims Protection Reau-
9 thorization Act of 2008 (8 U.S.C. 1232) or section 462
10 of the Homeland Security Act of 2002 (6 U.S.C. 279).

11 **SEC. 3804. ACCESS TO CHILDREN, STATE AND LOCAL**
12 **COURTS, CHILD WELFARE AGENCIES, AND**
13 **CONSULAR OFFICIALS.**

14 At all detention facilities, the Secretary shall—

15 (1) prominently post in a manner accessible to
16 detainees and visitors and include in detainee hand-
17 books information on the protections of this subtitle
18 as well as information on potential eligibility for pa-
19 role or release;

20 (2) absent extraordinary circumstances, ensure
21 that individuals who are detained by the Department
22 and are parents of children in the United States
23 are—

24 (A) permitted regular phone calls and con-
25 tact visits with their children;

1 (B) provided with contact information for
2 child welfare agencies and family courts in the
3 relevant jurisdictions;

4 (C) able to participate fully, and to the ex-
5 tent possible in-person, in all family court pro-
6 ceedings and any other proceedings that may
7 impact their right to custody of their children;

8 (D) granted free and confidential telephone
9 calls to relevant child welfare agencies and fam-
10 ily courts as often as is necessary to ensure
11 that the best interest of their children, includ-
12 ing a preference for family unity whenever ap-
13 propriate, can be considered in child welfare
14 agency or family court proceedings;

15 (E) able to fully comply with all family
16 court or child welfare agency orders impacting
17 custody of their children;

18 (F) provided access to United States pass-
19 port applications or other relevant travel docu-
20 ment applications for the purpose of obtaining
21 travel documents for their children;

22 (G) afforded timely access to a notary pub-
23 lic for the purpose of applying for a passport
24 for their children or executing guardianship or

1 other agreements to ensure the safety of their
2 children; and

3 (H) granted adequate time before removal
4 to obtain passports, apostilled birth certificates,
5 travel documents, and other necessary records
6 on behalf of their children if such children will
7 accompany them on their return to their coun-
8 try of origin or join them in their country of or-
9 igin; and

10 (3) where doing so would not impact public
11 safety or national security, facilitate the ability of
12 detained alien parents and primary caregivers to
13 share information regarding travel arrangements
14 with their consulate, children, child welfare agencies,
15 or other caregivers in advance of the detained alien
16 individual's departure from the United States.

17 **SEC. 3805. MANDATORY TRAINING.**

18 The Secretary, in consultation with the Secretary of
19 Health and Human Services, the Secretary of State, the
20 Attorney General, and independent child welfare and fam-
21 ily law experts, shall develop and provide training on the
22 protections required under sections 3803 and 3804 to all
23 personnel of the Department, cooperating entities, and de-
24 tention facilities operated by or under agreement with the
25 Department who regularly engage in immigration enforce-

1 ment actions and in the course of such actions come into
2 contact with individuals who are parents or primary care-
3 givers of children in the United States.

4 **SEC. 3806. RULEMAKING.**

5 Not later than 180 days after the date of the enact-
6 ment of this Act, the Secretary shall promulgate regula-
7 tions to implement sections 3803 and 3804 of this Act.

8 **SEC. 3807. SEVERABILITY.**

9 If any provision of this subtitle or amendment made
10 by this subtitle, or the application of a provision or amend-
11 ment to any person or circumstance, is held to be uncon-
12 stitutional, the remainder of this subtitle and amendments
13 made by this subtitle, and the application of the provisions
14 and amendment to any person or circumstance, shall not
15 be affected by the holding.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To protect alien detainees from unnecessary or inhumane solitary confinement.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BLUMENTHAL

Viz:

1 On page 668, line 16, strike “(b)” and insert the fol-
2 lowing:

3 (b) LIMITATIONS ON SOLITARY CONFINEMENT.—

4 (1) IN GENERAL.—Section 236(d) (8 U.S.C.
5 1226(d)) is amended by adding at the end the fol-
6 lowing:

7 “(3) NATURE OF DETENTION.—

8 “(A) DEFINITIONS.—In this paragraph:

9 “(i) ADMINISTRATIVE SEGREGA-
10 TION.—The term ‘administrative segrega-
11 tion’ means a nonpunitive form of solitary
12 confinement for administrative reasons.

1 “(ii) DISCIPLINARY SEGREGATION.—

2 The term ‘disciplinary segregation’ means
3 a punitive form of solitary confinement for
4 disciplinary reasons.

5 “(iii) SERIOUS MENTAL ILLNESS.—

6 The term ‘serious mental illness’ means a
7 substantial disorder of thought or mood
8 that significantly impairs judgment, behav-
9 ior, capacity to recognize reality, or ability
10 to cope with the ordinary demands of life.

11 “(iv) SOLITARY CONFINEMENT.—The
12 term ‘solitary confinement’ means cell con-
13 finement of 22 hours or more per day.

14 “(B) LIMITATIONS ON SOLITARY CONFINEMENT.—
15

16 “(i) IN GENERAL.—The use of soli-
17 tary confinement of an alien in custody
18 pursuant to this section, section 235, or
19 section 241 shall be limited to situations in
20 which such confinement—

21 “(I) is necessary—

22 “(aa) to control a threat to
23 detainees, staff, or the security of
24 the facility;

1 “(bb) to discipline the alien
2 for a serious disciplinary infrac-
3 tion if alternative sanctions
4 would not adequately regulate
5 the alien’s behavior; or

6 “(cc) for good order during
7 the last 24 hours before an alien
8 is released, removed, or trans-
9 ferred from the facility;

10 “(II) is limited to the briefest
11 term and under the least restrictive
12 conditions practicable and consistent
13 with the rationale for placement and
14 with the progress achieved by the
15 alien; and

16 “(III) complies with the require-
17 ments set forth in this subparagraph.

18 “(ii) CHILDREN.—Children who are
19 younger than 18 years of age may not be
20 placed in solitary confinement.

21 “(iii) SERIOUS MENTAL ILLNESS.—

22 “(I) IN GENERAL.—An alien with
23 a serious mental illness may not be
24 placed in involuntary solitary confine-
25 ment due to mental illness unless—

1 “(aa) such confinement is
2 necessary for the alien’s own pro-
3 tection; or

4 “(bb) if the alien requires
5 emergency stabilization or poses
6 a significant threat to staff or
7 others in general population.

8 “(II) MAXIMUM PERIOD.—An
9 alien diagnosed with serious mental
10 illness may not be placed in solitary
11 confinement for more than 15 days
12 unless the Secretary of Homeland Se-
13 curity determines that—

14 “(aa) any less restrictive al-
15 ternative is more likely than not
16 to cause greater harm to the
17 alien than the solitary confine-
18 ment period imposed; or

19 “(bb) the likely harm to the
20 alien is not substantial and the
21 period of solitary confinement is
22 the least restrictive alternative
23 necessary to protect the alien,
24 other detainees, or others.

25 “(iv) OWN PROTECTION.—

1 “(I) IN GENERAL.—Involuntary
2 solitary confinement for an alien’s
3 own protection may be used only for
4 the least amount of time practicable
5 and if no readily available and less-re-
6 strictive alternative will maintain the
7 alien’s safety.

8 “(II) MAXIMUM PERIOD.—An
9 alien may not be placed in involuntary
10 solitary confinement for the alien’s
11 own protection for longer than 15
12 days unless the Secretary of Home-
13 land Security determines that any less
14 restrictive alternative is more likely
15 than not to cause greater harm to the
16 alien than the solitary confinement pe-
17 riod imposed.

18 “(III) PROHIBITED FACTORS.—
19 The Secretary of Homeland Security
20 may not rely solely on an alien’s age,
21 physical disability, sexual orientation,
22 gender identity, race, or religion. The
23 Secretary shall make an individualized
24 assessment in each case.

1 “(v) MEDICAL CARE.—An alien placed
2 in solitary confinement—

3 “(I) shall be visited by a medical
4 professional at least 3 times each
5 week;

6 “(II) shall receive at least weekly
7 mental health monitoring by a li-
8 censed mental health clinician; and

9 “(III) shall be removed from soli-
10 tary confinement if—

11 “(aa) a mental health clini-
12 cian determines that such deten-
13 tion is having a significant nega-
14 tive impact on the alien’s mental
15 health; and

16 “(bb) an appropriate alter-
17 native is available.

18 “(vi) NOTIFICATION; ACCESS TO
19 COUNSEL.—If an alien is placed in solitary
20 confinement, the alien—

21 “(I) shall be informed verbally
22 and in writing of the reason for such
23 confinement and the intended dura-
24 tion of such confinement, if specified
25 at the time of initial placement; and

1 “(II) shall be offered access to
2 counsel on the same basis as detainees
3 in the general population.

4 “(vii) LONGER SOLITARY CONFINEMENT PERIODS.—If an alien has been sub-
5 ject to involuntary solitary confinement for
6 more than 14 consecutive days, the Sec-
7 retary of Homeland Security shall conduct
8 a timely review to determine whether con-
9 tinued placement is justified by an extreme
10 disciplinary infraction or is the least re-
11 strictive means of protecting the alien or
12 others. Any alien held in solitary confine-
13 ment for more than 7 days shall be given
14 a reasonable opportunity to challenge such
15 placement with the detention facility ad-
16 ministrator, which will promptly respond to
17 such challenge in writing.

18
19 “(viii) OVERSIGHT.—The Secretary of
20 Homeland Security shall ensure that—

21 “(I) he or she is regularly in-
22 formed about the use of solitary con-
23 finement in all facilities at which
24 aliens are detained; and

1 “(II) the Department fully com-
2 plies with the provisions under this
3 paragraph.

4 “(C) DISCIPLINARY SEGREGATION.—Dis-
5 ciplinary segregation is authorized only pursu-
6 ant to the order of a facility disciplinary panel
7 following a hearing in which the detainee is de-
8 termined to have violated a facility rule.

9 “(D) ADMINISTRATIVE SEGREGATION.—
10 Administrative segregation is authorized only as
11 necessary to ensure the safety of the detainee
12 or others, the protection of property, or the se-
13 curity or good order of the facility. Detainees in
14 administrative segregation shall be offered pro-
15 gramming opportunities and privileges con-
16 sistent with those available in the general popu-
17 lation, except where precluded by safety or se-
18 curity concerns.”.

19 (2) ANNUAL REPORT.—The Secretary shall—

20 (A) collect and compile information regard-
21 ing the prevalence, reasons for, and duration of
22 solitary confinement in all facilities described in
23 paragraph (3);

24 (B) submit an annual report containing
25 the information described in subparagraph (A)

1 to Congress not later than 30 days after the
2 end of the reporting period; and

3 (C) make the data contained in the report
4 submitted under subparagraph (B) publically
5 available.

6 (3) RULEMAKING.—The Secretary shall adopt
7 regulations or policies to carry out section 236(d)(3)
8 of the Immigration and Nationality Act, as amended
9 by paragraph (1) at all facilities at which aliens are
10 detained pursuant to section 235, 236, or 241 of
11 such Act.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To prohibit sections 3401, 3404, and 4401(a), and the amendments made by such sections, from taking effect until 1 year after the Director of National Intelligence submits to Congress a review related of the Boston Marathon bombings.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRASSLEY

Viz:

1 At the end of subtitle D of title III, add the following:

2 **SEC. 3408. EFFECTIVE DATE.**

3 (a) IN GENERAL.—Sections 3401, 3404, and

4 4401(a), and the amendments made by such sections,

5 shall not go into effect until the date that is 1 year after

6 the date upon which the Director of National Intelligence

7 submits to Congress the review of the Intelligence Commu-

8 nity Inspectors General Forum, and all relevant sub-

9 reports generated as a result of the division of labor by

10 the Inspector General of the Intelligence Community, of

1 the United States Government's handling of the bombings
2 that occurred during the Boston Marathon on April 15,
3 2013, including the intelligence information and the immi-
4 gration failures leading up to the attack.

5 (b) REQUIREMENT FOR REVIEW.—The review re-
6 ferred to in subsection (a) shall include any failure of the
7 asylum process and student tracking of the suspects in
8 the bombings that occurred during the Boston Marathon
9 on April 15, 2013, and those who aided them.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require the Secretary of Transportation to establish a mandatory biometric exit data system at airports in the United States with the highest volume of international air travel.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and
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Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. HATCH

Viz:

1 Beginning on page 556, strike line 21 and all that
2 follows through page 557, line 2, and insert the following:

3 (a) ESTABLISHMENT.—

4 (1) IN GENERAL.—Not later than December 31,
5 2015, the Secretary shall establish a mandatory exit
6 data system that shall include a requirement for the
7 collection of data from machine-readable visas, pass-
8 ports, and other travel and entry documents for all
9 categories of aliens who are exiting from air and sea
10 ports of entry.

1 (2) BIOMETRIC EXIT DATA SYSTEM.—Not later
2 than 2 years after the date of the enactment of this
3 Act, the Secretary shall establish a mandatory bio-
4 metric exit data system at the 10 United States air-
5 ports that support the highest volume of inter-
6 national air travel, as determined by Department of
7 Transportation international flight departure data.

8 (3) STUDY AND REPORT.—Not later than 5
9 years after the date of the enactment of this Act, the
10 Comptroller General of the United States shall con-
11 duct a study of the effectiveness of biometric exit
12 data collection at the 10 airports referred to in para-
13 graph (2) and shall submit the results of the study
14 to Congress for review.

15 (4) MANDATORY BIOMETRIC EXIT DATA SYS-
16 TEM.—Absent intervening action by Congress, the
17 Secretary, not later than 6 years after the date of
18 the enactment of this Act, shall establish a manda-
19 tory biometric exit data system at all the Core 30
20 international airports in the United States, as so
21 designated by the Federal Aviation Administration.

22 (5) EXPANSION OF BIOMETRIC EXIT DATA SYS-
23 TEM TO MAJOR SEA AND LAND PORTS.—Not later
24 than 6 years after the date of the enactment of this
25 Act, the Secretary shall submit a plan to Congress

1 for the expansion of the biometric exit system to
2 major sea and land entry and exit points within the
3 United States based upon—

4 (A) the performance of the program estab-
5 lished pursuant to paragraph (2); and

6 (B) the findings of the study conducted
7 pursuant to paragraph (3).

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide that no person who has previously been willfully present in the United States while not in lawful status shall be eligible for United States citizenship.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. CRUZ

Viz:

1 At the appropriate place, insert the following:

2 **SEC. __. INELIGIBILITY FOR UNITED STATES CITIZENSHIP**

3 **OF PERSONS WHO HAVE PREVIOUSLY BEEN**

4 **WILLFULLY IN UNITED STATES IN UNLAWFUL STATUS.**

5 Notwithstanding any other provision of law, no per-
6 son who is or has previously been willfully present in the United
7 States while not in lawful status under the Immigration and Na-
8 tionality Act (8 U.S.C. 1101 et seq.) shall be eligible for
9 United States citizenship.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To recognize, for purposes of the Immigration and Nationality Act, any marriage entered into in full compliance with the laws of the State or foreign country within which such marriage was performed.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LEAHY

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____ . MARRIAGE.**

3 (a) RULE OF CONSTRUCTION.—Title I (8 U.S.C.
4 1101 et seq.) is amended by adding at the end the fol-
5 lowing:

6 **“SEC. 107. RULE OF CONSTRUCTION.**

7 “Notwithstanding section 7 of title 1, United States
8 Code, an individual shall be considered a ‘spouse’ and a
9 marriage shall be considered a ‘marriage’ for the purposes
10 of this Act if—

1 “(1) the marriage of the individual is valid in
2 the State in which the marriage was entered into; or

3 “(2) in the case of a marriage entered into out-
4 side of any State, the marriage is valid in the place
5 in which the marriage was entered into and the mar-
6 riage could have been entered into in a State.”.

7 (b) CONFORMING AMENDMENT.—Section 202(b)(2)
8 (8 U.S.C. 1152(b)(2)) is amended—

9 (1) by striking “his spouse” and inserting “his
10 or her spouse”; and

11 (2) by striking “husband and wife” and insert-
12 ing “the spouses”.